

Consultation Strategies



What is Consultation?

- A process beginning with respect and relationship building
- An ongoing dialogue; all parties talk and listen
- A continuous, collaborative, dynamic progression, not a single event when the Corps wants something.
- No set number of meetings
- Goal is consensus
- Socializing is a must

TALK EARLY; TALK OFTEN

Consultation – Structure/Goals

- Occurs when there is mutual agreement that “consultation” is taking place
 - occurs at leadership AND/or staff level
 - Issue-focused, with the goal of implementation.
 - Identifies long-term objectives, e.g.,
 - Agreement (Programmatic, MOU, MOA)
- Objectives
 - “Working meetings” to provide information, discussions
 - Identifying/achieving milestones
 - Documents-MOAs/MOUs, other work products
 - Formal Consultation Meeting/Signing Ceremony

GETTING TO YES

November 2010

Why We Consult

- It's the law: NEPA, NHPA, NAGPRA requirements
- Corps Civil Works Programs - flood protection, navigation, hydropower, regulatory
- Military Program Issues
 - Base Realignment and Closure (BRAC) Process
 - Environmental Restoration (NALEMP, DERP, FUDS)
 - Noise from flyovers
 - Access to sacred sites
- Changes in Policy - Development of Rules and Regulations (e.g., Appendix C)

Common Concerns Expressed by Tribes

- The Gov't doesn't consult
- The Gov't makes a decision, announces it, and defends it
 - Tribes want full opportunity for input in planning process.
 - Not complete until deliberation over proposed action by tribal council and consensus reached.
- Typical Gov't/Corps methods of business often viewed as hurried, insensitive, regimental, and territorial
- Face-to-face meetings are important

CONSULTATION TAKES TIME

Common Concerns Expressed by Corps/Agency

- No resources (money, staff, time) to consult
- My deadlines won't permit me to consult
- Why can't standard NEPA practices take care of the consultation requirement?
- I can't figure out who to consult with
- Tribes use 'consultation' as a tactic to stop projects
- How much is enough? Must we consult until they agree?
- Why do Tribes get special treatment?



Establish the Relationship First

- Identify opportunities to build relationships before you need to
 - Take new DE to visit Tribes
 - Invite Tribal leaders to change of command ceremonies
 - Invite Tribes to participate in public events or at conferences
 - Ask for Tribe's assistance in planning events for Native American Heritage Month (November)
 - Present US flag to Tribal veterans
 - Identify surplus property that tribes may need
 - Identify contracting opportunities
 - Yearly Commander's briefing; 'upcoming projects in the year ahead'

FACE TO FACE INTERACTIONS ARE BEST!

Before You Begin, Prepare

- Consult your Tribal Liaison-Always!
- Which Tribes should you consult with?
 - Removed Tribes with ancestral connections to your region? Their history / origins?
- Governing infrastructure of the Tribe?
 - Decision-making process? Political, religious leadership?
 - What is the political environment?
 - Agendas may be different
 - New administration can mean new priorities
- Know your POC
 - Chief or Chairman?; Dir. Of Natural/Water Resources?; THPO?

Learn Tribes' history

- What is the Corps', your District's and your program's history with Tribe(s)?
 - Applicable treaties?
 - Current mission impacts? Projects under development?
 - Other divisions/branches already working tribal issues?
 - Previous consultation?
 - Current or past hot issues you need to be aware of?
 - Current agreements in place?
- Brief your leadership and co-workers prior to tribal meetings
- Many times, you are interacting with displaced persons; refugees
- Learn something of their culture
 - Customs, language, origins, current issues
 - Consult Tribal Liaison, SHPO, Tribes, Tribal websites
 - Indian News – Indianz.com, Indian Country Today

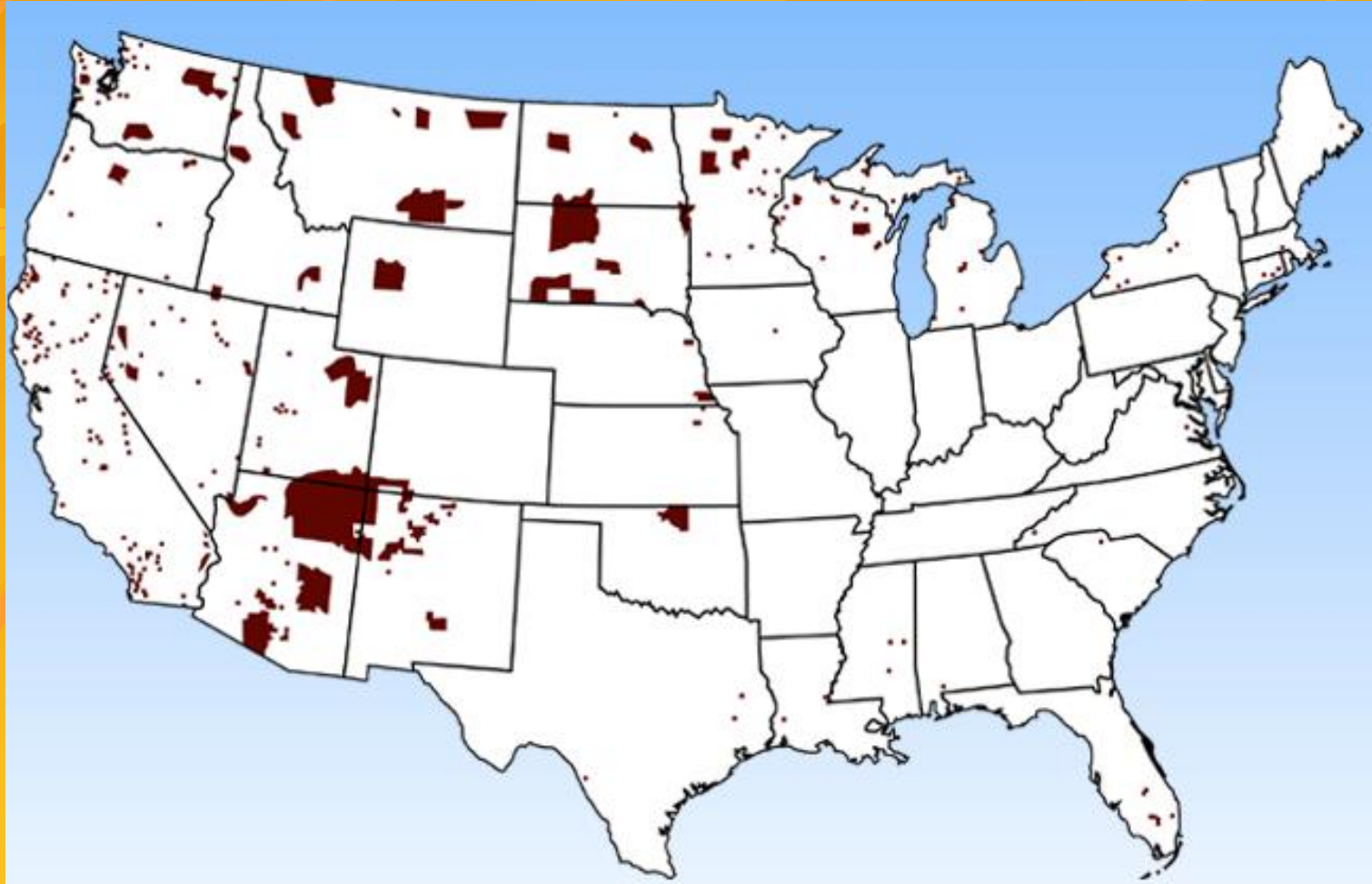
Tribal Issues

- Preservation of traditional culture
 - Language, sacred places, ceremonies, subsistence, technology
 - Getting land back
- Disturbance of ancestral remains
 - Exposure of human remains is the worst thing that can happen to most Tribes
 - Disturbed human remains affect the health and well being of tribal members
- Environmental issues
 - Water quality/quantity, flooding – anything affecting the land
 - Infrastructure – housing, plumbing –lack modern facilities

Indian Land in 1492



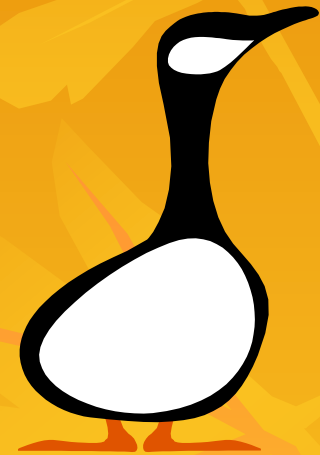
Indian Land Today



November 2010

Update Tribes about Government Processes

- Budget Cycle, Funding Sources, Calendar
- Organization Structure/Chain of Command/POCs
 - Teams
 - Regulatory
- Legal Requirements of
 - WRDA - new projects
 - Regulatory Program (Secs. 10/404)
 - PAS
- Information on the mission
 - What are the Corps' mission areas?
 - Definition of terms and commonly used abbreviations



KNOWLEDGE IS POWER; EQUAL ACCESS TO KNOWLEDGE
INSURES SUCCESS!

Written Protocols Helpful

- Written Protocol agreements are an option:
 - Purpose & Guiding Principles - how Agency will relate to Tribe and Tribe to Agency; how government-to-government relationship will work
 - Who the Tribal/agency contacts should be
 - Procedures/protocols when specific consultation needs arise
 - Appropriate use of an area (e.g., reburial), mitigation plan, modification in construction plans, disposition of human remains
 - Dispute Resolution
 - Follow guidance in NHPA, NAGPRA, NALEMP if those laws are involved

Planning a Consultation Meeting

- Agency/Tribe develop draft agenda
- Location -Tribal or agency? Take turns. A neutral place?
- When
 - Consult Tribal POC for ceremonies, celebrations
 - Funerals will cancel a meeting
- Participants (Tribal & agency)
 - Confirm meeting participants—verify with Tribe
 - Recognize, minimize lack of symmetry
 - Draft invitational letter
 - Confirm meeting participants—verify with Tribe
 - Minimize lack of symmetry.
- Meeting room
 - No head table. Seating arrangements?; Caucus rooms
- Preparations - read-ahead materials
 - Make sure Tribal partners are informed

More Planning

- Allow time for
 - Extended discussions, side meetings
 - Opportunities to talk, share; travel time
 - Time for breaks, food/drink – health concerns
 - Prayers; special ceremonies
- Special requirements
 - Travel, food/snacks, honorariums, gift exchange, etc.
 - Begin coordination for budget approval
 - Interpreters? Moderator? Child care?
- Documentation of Meeting
 - Court reporter? Videotape?
 - A designated person taking minutes?

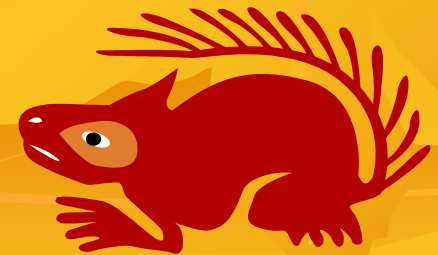
Helpful Qualities in Meetings

- Communicativeness
 - Willingness and ability to communicate thoughts with feelings—BE OPEN!
- Flexibility
 - Ability to adapt to uncertain/ambiguous situations
 - “Go with the flow”
- Attentiveness and responsiveness
- Open-mindedness
- Sense of humor--ability to laugh at oneself

Remember, Tribes fall *outside* your Chain of Command
YOU CANNOT DICTATE TO TRIBES!

Cultural Differences Affect Meetings

- Indigenous attitude towards the land
 - Land cannot be owned
 - Land is mother earth
 - People are a part of the earth and come from it
 - We use the land temporarily; the land exists forever
- Western attitude toward the Land
 - Land is property
 - Land is to be settled and exploited
 - Resources are to be extracted



More Cultural Differences Affecting Meetings

- Holistic view
 - Spiritual connection to natural world
 - Emotional, immediate tie to ancestors and descendants – 7th Generation
 - All creatures are connected
- Time is fluid and circular
- Traditional spiritual leaders and/or council may have to be consulted for a decision
- Elders highly respected; allowed to talk about whatever they want
- Time is circular, not linear

Written Communication

- In your letters
 - Be brief & don't use acronyms or technical jargon
 - Prepare an executive summary when you send a large report
 - Read what you write before you send it – do *you* understand it?
- Indigenous People
 - Have a strong oral tradition; data are not necessarily written
 - Have a stronger respect for information passed down thru the generations orally
 - Are under resourced and have few staff to read volumes



Oral Communication

- American Indian/Alaska Native Culture:
 - Speaks from the heart & can be emotional
 - Person/relationship oriented
 - Past, present, future run together; holistic world view
 - Deep listening; paying attention to all cues
 - Speak more slowly than most of us

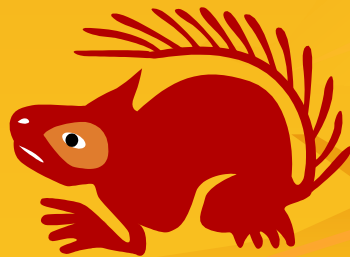
- The Government Culture:
 - Speaks objectively & impersonally about facts & data
 - Attends to business & sticks to the agenda
 - Focuses on the present
 - Wants to solve the problem on the spot
 - Has a tendency to hurry up!

Nonverbal Communication

- Gestures
 - Handshakes, touching, saluting
- Facial signals
 - Nodding, eye contact
- Dress/Attire
 - No high heels and pearls; no dirty blue jeans either
 - The military uniform is respected
- Composure
 - Expressions of anger & sadness
- Time
 - Punctuality; sticking to the agenda
- Conversation styles
 - Pace, volume, interrupting, really listening

Silence

- In Tribal cultures, silence is often a sign of respect
- Tribal members may not say much; it does not mean they're not interested
- Silence may mean reflection; it does not mean they don't understand
- Silence not always mean tacit agreement; it may mean 'I hear you'
- Try not to be uncomfortable; try to appreciate the silence



What *Not* to Do

- Present a decision that appears to be already made
- Be bossy or dictatorial
- Dismiss the past as unimportant
- Interrupt
- Ridicule or criticize
- Be defensive
- Show a lack of respect for cultural differences
- Insist on sticking rigidly to the agenda

GO WITH THE FLOW!

Facing Disagreement

- Be prepared for debate, heated discussion and disagreement, surprise agenda items
- Caucus is OK
- Stay calm in the face of anger
 - Listen, don't react
 - Forgive, forget, move forward
 - Don't take things personally
 - Don't defend past decisions
 - Focus on objectives



KEEP YOUR EYES ON THE PRIZE!

Dispute Resolution

- Options could be covered in written consultation protocol
 - Mediator? Negotiator?
 - Sec 106 of the NHPA and NAGPRA have procedures and involvement at higher levels
 - MOAs/permit conditioning
 - NAGPRA review committee
 - Non 106 and non NAGPRA issues may require the Corps or agency to go beyond local office to HQ level
 - Agree to disagree
- DISAGREEMENT WILL BE MORE PALATABLE IF BOTH SIDES UNDERSTAND THE PROCESS THAT LED TO THE DECISION

After A Consultation Meeting

- Follow up with a phone call a couple of days later
- Distribute the transcript or minutes to all parties participating in consultation process; ask for input
- Agree to the follow-on
 - Another meeting
 - Staff to work together to finish products
 - Formal signing
- Continue communicating

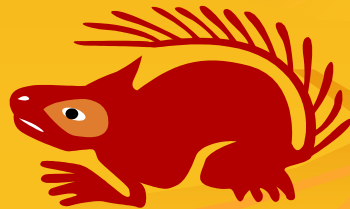
DO *NOT* DROP THE BALL!

Tips – Things to Remember

- Talk early - and often.
- How you conduct yourself at any meeting with tribal members can make or break your relationship with the tribe
- State and Tribal interests frequently differ.
- Avoid Tribal politics
- Do NOT interrupt
- Listen more than you talk
- Don't promise what you can't deliver
- Have reasonable expectations
- Be flexible about deadlines and schedules

Things to Consider

- Confidentiality
- Reimbursement for travel
- Payment for services
- Food and Gifts
- Senior level decision makers (local, division or HQ) must listen to Tribal Liaison and other key staff
- Don't expect a decision *at* a meeting
- Initial investment of time and money help insure the mission will not be compromised - Go the extra mile
- Maintain communication after meeting; plan next step



Questions?

Georgeie Reynolds
HQUSACE Tribal Liaison
441 G St NW
Washington DC 20314

202 761-5855 (ph)
202 761-4370 (fax)
703 303-4429 (cell)